(27)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No.4584/2007

PETITIONER Ranbir Singh, aged about 50 years, S/o Late Ranjit Singh, R/o Civil Lines, Ward N. 21, Manendragarh, District Koriya (C.G.)

Versus

RESPONDENTS

1. The State of Chhattisgarh, through Secretary, Ministry of Revenue, D.K.S. Bhawan, Raipur
2. The Collector, Koriya, Baikunthpur
3. Tahsildar, Manendragarh, District Koriya

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Parag Kotecha, Counsel for the petitioner.

Shri A.S. Kachhwaha, Govt. Advocate for the State on advance copy

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ORAL ORDER
(06.08.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Assistant Grade-II in Tehsil Office, Manendragarh, has been transferred from Manendragarh to Khadgawa by order dated 20.07.2007 (Annexure P-1) on administrative grounds.

Learned counsel for the petitioner submits that the order of transfer has been passed in violation of the Transfer Policy, as the same has been affected in the ban period. He refers to clause 3 (1) of the Policy dated 13th June 2007 (Annexure P/2). His submission is that this Policy was to be strictly followed, but this has not been done in case of the petitioner. His over all submission is that the transfer order passed in violation of the Transfer Policy should be set aside.

In the matter of ***Union of India- Vs- S.L. Abbas, AIR 1993 SC 2444***, it has been held by the Apex Court that the guidelines

issued by the Government about the transfer of Government employee do not confer upon the Government employee a legally enforceable right. It has also been held vide para 7 of the aforesaid judgment that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. However, it has been further held that while ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.

Further in the matter of ***State of U.P. and others vs. Gobardhan Lal, 2004 AIR SCW 2082***, it has been observed by the Apex Court that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. The Apex Court has further observed that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

On being pointedly asked from learned counsel for the petitioner that from which period the petitioner is posted at Mandendragarh, he submits that the petitioner is posted at Manendragarh since the year 1996.

Having heard learned counsel for the parties, having gone through the contents of the petition, having perused the contents of the Policy and having considered the circumstance that the petitioner is posted at Manendragarh since the year 1996 i.e. he has completed more than 11 years at one place, I do not find any ground of malafide or a ground of extraneous consideration or a

ground of violation of the statutory Rule or Act in the matter of transfer of the petitioner warranting interference by this Court.

This petition filed on the ground of violation of the Policy only cannot be entertained. The same is liable to be dismissed and is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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